

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JUANA ALVARADO-LOPEZ,

§

Plaintiff

§

VS.

§

C.A. No. 4:21-cv-1759
JURY DEMANDED

CATERPILLAR INC. and
BENJAMIN D. HOBBS

§

Defendants.

§

NOTICE OF REMOVAL

Defendants Caterpillar Inc. and Benjamin D. Hobbs hereby give their notice of removal of this action to the United States District Court for the Southern District of Texas. *See* 28 U.S.C. §§ 1441 and 1446. In support thereof, Solar states as follows:

1. On April 28, 2021, Juana Alvarado-Lopez (“Plaintiff”) commenced a civil action in the 127th District Court of Harris County, Texas styled *Juana Alvarado-Lopez v. Caterpillar Inc. and Benjamin D. Hobbs*, Cause No. 2021-25286 (referred to herein as the “State Action”). Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served in the State Action are attached to this Notice as **Exhibits A through D**.

2. In the State Action, Plaintiff sought damages for personal injuries against Caterpillar Inc. and Benjamin D. Hobbs (collectively, “Defendants”). Plaintiff claims that Defendant Hobbs, while he was in the course and scope of his employment with Defendant Caterpillar, caused a collision. As a result, Ms. Alvarado-Lopez allegedly suffered damages.

3. Defendants respectively received service of Plaintiff’s State Action on April 22, 2021. Defendants filed their answer to the State Action on May 24, 2021. This Notice is timely under 28 U.S.C. § 1446(b), having been filed with this Court within thirty days after receipt by

Defendants of a copy of an “initial pleading setting forth the claim for relief upon which such action or proceeding is based...” 28 U.S.C. §1446(b).

4. This Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 (Diversity Jurisdiction) because it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Consequently, removal of the State Action to this Court is appropriate pursuant to 28 U.S.C. §§ 1441(a) and 1446.

5. Plaintiff is an individual who is a citizen of the State of Texas and resides in Harris County, Texas.

6. Defendant Caterpillar Inc. is a Delaware corporation with its principal place of business in Deerfield, Illinois.

7. Defendant Benjamin D. Hobbs is a citizen of the State of Illinois.

8. Complete diversity of citizenship thus exists between the relevant parties. *See* 28 U.S.C. § 1332(a).

9. In the State Action, Plaintiff seeks recovery of sums over \$250,000 but less than \$1,000,000. Although Defendants deny Plaintiff’s claims, more than \$75,000.00 is in controversy, exclusive of interest and costs as per 28 U.S.C. §1332(a).

10. The State Action is thus a civil action over which the district courts of the United States have original jurisdiction, in that the action involves an amount in controversy which exceeds the sum of \$75,000.00, exclusive of interest and costs, and it is between citizens of different states within the meaning of 28 U.S.C. §§ 1332 and 1441(a).

11. The United States District Court for the Southern District of Texas, Houston Division, embraces the county in which the State Action is now pending. Therefore, under 28 U.S.C. § 124(a)(7) and 1441(a), this Court is a proper venue for this action.

12. A true and correct copy of this Notice has been sent to the Clerk of the District Court for Harris County, for filing as provided by law, and is concurrently served on Plaintiff in accordance with 28 U.S.C. § 1446(d).

13. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, the following items were filed with this Court as exhibits to the original Notice of Removal:

- (1) All executed process filed in the state court action are attached as follows:
Exhibit A – Affidavit of Service as to Caterpillar Inc.; and **Exhibit B** – Affidavit of Service on Texas Transportation Commission as to Benjamin D. Hobbs.
- (2) Copies of all pleadings filed in the state court action are attached as follows: **Exhibit C** – Original Petition; and **Exhibit D** – Defendants' Original Answer.
- (3) A copy of the docket sheet in the state court action is attached as **Exhibit E**.
- (4) An index of all documents that clearly identifies each document and indicates the date the document was filed in state court is attached as **Exhibit F**.
- (5) A List of Counsel of Record is attached as **Exhibit G**.

14. Upon the filing of this Notice of Removal, Defendants also provided written notice of this removal to all parties. A copy of this Notice is also being filed with the Clerk of the District Court for Harris County where this cause was originally filed.

15. Defendants expressly reserve all rights to assert all defenses to this action.

WHEREFORE, Defendants Caterpillar Inc. and Benjamin D. Hobbs respectfully give notice that the action formerly pending as Cause No. 2021-25286 in the 127th District Court for Harris County, Texas has been removed to this Court.

Respectfully submitted,

MEHAFFYWEBER

By: /s/ Brad K. Howell

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**ATTORNEY-IN-CHARGE FOR
DEFENDANTS CATERPILLAR INC.
AND BENJAMIN D. HOBBS**

CERTIFICATE OF SERVICE

On the 28th day of May, 2021, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2):

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/s/ Brad K. Howell

Brad K. Howell